

**COMMONWEALTH OF KENTUCKY
EXECUTIVE BRANCH ETHICS COMMISSION
CASE 07-110**

**IN RE: RANDALL D. SMITH
ALLEGED VIOLATION OF KRS CHAPTER 11A**

**INITIATING ORDER
Initiation of Administrative Proceeding
And Formal Complaint**

The Executive Branch Ethics Commission (the "Commission"), upon its own motion, initiated a preliminary investigation of Randall D. Smith (the "Respondent"), pursuant to KRS 11A.080(1), on October 31, 2006.

At all relevant times the Respondent was a "public servant" as defined in KRS 11A.010(9), and thus subject to the jurisdiction of the Commission.

The Commission initiated the preliminary investigation to determine whether there was probable cause to believe the Respondent violated provisions of KRS Chapter 11A (also referred to herein as the "Ethics Code").

The Commission in the course of its investigation focused upon whether the Respondent violated KRS 11A.020(1) by using or attempting to use his official position to give himself an advantage by soliciting monies from the owner of a mine it was his duty to inspect during the course of his official duties.

The Commission notified the Respondent of the preliminary investigation by letter dated November 2, 2006. During the course of the investigation, the Commission found probable cause to believe that a violation of KRS Chapter 11A had occurred and voted on October 19, 2007, to initiate an administrative proceeding, pursuant to KRS 11A.080(4)(b) and KRS Chapter 13B, to determine whether the Respondent violated the Ethics Code as set forth in the

Allegations of Violation, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.

IT IS THEREFORE ORDERED that:

1. The Respondent shall file his answer to this Initiating Order within twenty (20) days from the date of service, verifying the truth and accuracy of any answer submitted.
2. The Respondent shall appear at a hearing to be scheduled by subsequent order and be prepared to defend against the Commission's allegations that he committed the Ethics Code violation set forth in the Allegations of Violation, attached hereto and incorporated fully herein as Appendix A to this Initiating Order.
3. All material submitted to the Commission shall be addressed to the Executive Branch Ethics Commission, The Vest-Lindsey House, 401 Wapping Street, Frankfort, Kentucky 40601. The Commission is represented by John R. Steffen, General Counsel, who may be contacted through the Commission's office at (502) 564-7954.
4. The Respondent has the right to legal counsel during this proceeding. If the Respondent retains legal counsel, that person shall file an appearance with the Commission, and thereafter all correspondence from the Commission to the Respondent shall be mailed or delivered to the Respondent's attorney.
5. The Respondent has the right to examine upon request, at least five (5) days prior to the hearing, a list of witnesses the Commission expects to call at the hearing, any evidence which will be used at the hearing and any exculpatory information in the Commission's possession.

6. The Respondent has the right to subpoena witnesses on his own behalf. If the Respondent subpoenas witnesses, he shall pay for all costs associated with the subpoenas' issuance, including any applicable witness fees.


7. If the Respondent fails to attend or participate as required at any stage of the administrative hearing process without good cause shown, he may be held in default pursuant to KRS 13B.050(3)(h).

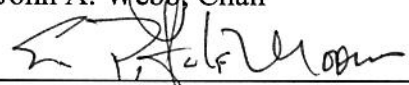
8. The Respondent has a right to appeal any final Commission order to the Franklin Circuit Court within thirty (30) days of service.

9. This proceeding is subject to KRS Chapter 11A, the Commission's regulations, the provisions of KRS Chapter 13B, and any Order issued by the Commission or its hearing officer issued during this administrative proceeding.

So ordered this 19th day of October, 2007.

EXECUTIVE BRANCH ETHICS COMMISSION:



John A. Webb, Chair

E. Patrick Moores, Vice-Chair

J. Quentin Wesley

Ronald L. Green

**APPENDIX A
CASE NO. 07-110
INITIATING ORDER**

ALLEGATION OF VIOLATION

The Respondent, Randall D. Smith, was an employee of the Commonwealth of Kentucky, serving as an environmental inspector for the Environmental and Public Protection Cabinet. The Respondent was subject to the jurisdiction of the Commission at all relevant times. KRS 11A.010(9)(h).

During the course of its preliminary investigation, the Commission found probable cause to believe that Smith committed the following violation:

COUNT I

That Smith, on or about September 11, 2006, used his official position to obtain financial gain for himself and to secure or create privileges, exemptions, advantages, or treatment for himself in derogation of the public interest at large by unlawfully extorting \$500 cash, and future monthly payments of \$500, from a surface-mine owner whose operation Smith inspected as an environmental inspector for the Environmental and Public Protection Cabinet which exercised regulatory control over the surface-mine operation. The use of Smith's influence in such a way was a substantial conflict between his personal or private interest and his duties in the public interest. These facts constitute a violation of KRS 11A.020(1)(a), (c), and (d).

KRS 11A.020(1)(a), (c), and (d) provide:

- (1) No public servant, by himself or through others, shall knowingly:
- (a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

...

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

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